

(ii) Based on the contracting officer's knowledge of the market, more favorable terms and conditions, including pricing, will be provided if a single award is made;

(iii) The cost of administration of multiple contracts may outweigh any potential benefits from making multiple awards;

(iv) The tasks likely to be ordered are so integrally related that only a single contractor can reasonably perform the work;

(v) The total estimated value of the contract is less than the simplified acquisition threshold; or

(vi) Multiple awards would not be in the best interests of the Government.

(2) *Contracts for advisory and assistance services.* (i) Except as provided in paragraph (c)(2)(ii) of this section, if an indefinite-quantity contract for advisory and assistance services will not exceed three years and \$10,000,000, including all options, a contracting officer may, but is not required to, give preference to making multiple awards. If an indefinite-quantity contract for advisory and assistance services exceeds three years and \$10,000,000, including all options, multiple awards shall be made unless—

(A) The contracting officer or other official designated by the head of the agency determines in writing, prior to the issuance of the solicitation, that the services required under the task order contract are so unique or highly specialized that it is not practicable to award more than one contract. This determination may also be appropriate when the tasks likely to be issued are so integrally related that only a single contractor can reasonably perform the work;

(B) The contracting officer or other official designated by the head of the agency determines in writing, after the evaluation of offers, that only one offeror is capable of providing the services required at the level of quality required; or

(C) Only one offer is received.

(ii) The requirements of paragraph (c)(2)(i) of this section are not applicable to an acquisition of supplies or services that includes the acquisition of advisory and assistance services, if the contracting officer or other official

designated by the head of the agency determines that the advisory and assistance services are necessarily incident to, and not a significant component of, the contract.

[48 FR 42219, Sept. 19, 1983, as amended at 56 FR 15150, Apr. 15, 1991; 60 FR 49725, Sept. 26, 1995; 61 FR 39190, 39203, July 26, 1996]

16.505 Ordering.

(a) *General.* (1) When placing orders under this subpart, a separate notice under 5.201 is not required.

(2) The contracting officer or duly appointed ordering officer shall ensure that individual orders clearly describe all services to be performed or supplies to be delivered. Such officer shall also ensure that orders are within the scope, period, and maximum value of the contract.

(3) The contracting officer shall include in the contract Schedule the names of the activity or activities authorized to issue orders.

(4) If appropriate, authorization for placing oral orders may be included in the contract Schedule; provided, that procedures have been established for obligating funds and that oral orders are confirmed in writing.

(5) Orders may be placed by facsimile or by electronic commerce methods, if provided for in the contract.

(6) Orders placed under indefinite-delivery contracts shall contain the following information:

(i) Date of order.

(ii) Contract number and order number.

(iii) Item number and description, quantity, and unit price or estimated cost or fee.

(iv) Delivery or performance date.

(v) Place of delivery or performance (including consignee).

(vi) Packaging, packing, and shipping instructions, if any.

(vii) Accounting and appropriation data.

(viii) Any other pertinent information.

(7) No protest under subpart 33.1 is authorized in connection with the issuance or proposed issuance of an order under a task order contract or delivery order contract except for a protest on the grounds that the order increases

the scope, period, or maximum value of the contract.

(b) *Orders under multiple award contracts.* (1) Except as provided for in paragraph (b)(2) of this section, for orders issued under multiple delivery order contracts or multiple task order contracts, each awardee shall be provided a fair opportunity to be considered for each order in excess of \$2,500. In determining the procedures for providing awardees a fair opportunity to be considered for each order, contracting officers shall exercise broad discretion. The contracting officer, in making decisions in the award of any individual task order, should consider factors such as past performance on earlier tasks under the multiple award contract, quality of deliverables, cost control, price, cost, or other factors that the contracting officer believes are relevant to the award of a task order to an awardee under the contract. In evaluating past performance on individual orders, the procedural requirements in subpart 42.15 are not mandatory. The procedures and selection criteria that will be used to provide multiple awardees a fair opportunity to be considered for each order must be set forth in the solicitation and contract. The procedures for selecting awardees for the placement of particular orders need not comply with the competition requirements of part 6. However, agencies shall not use any method (such as allocation) that would not result in fair consideration being given to all awardees prior to placing each order. Formal evaluation plans or scoring of quotes or offers are not required. Agencies may use oral proposals and streamlined procedures when selecting an order awardee. In addition, the contracting officer need not contact each of the multiple awardees under the contract before selecting an order awardee if the contracting officer has information available to ensure that each awardee is provided a fair opportunity to be considered for each order.

(2) Awardees need not be given an opportunity to be considered for a particular order in excess of \$2,500 under multiple delivery order contracts or multiple task order contracts if the contracting officer determines that—

(i) The agency need for such supplies or services is of such urgency that providing such opportunity would result in unacceptable delays;

(ii) Only one such contractor is capable of providing such supplies or services required at the level of quality required because the supplies or services ordered are unique or highly specialized;

(iii) The order should be issued on a sole-source basis in the interest of economy and efficiency as a logical follow-on to an order already issued under the contract, provided that all awardees were given a fair opportunity to be considered for the original order; or

(iv) It is necessary to place an order to satisfy a minimum guarantee.

(3) The Ocompeting independentlyO requirement of 15.804-1(b)(1) is satisfied for orders placed under multiple delivery order contracts or multiple task order contracts when—

(i) The price for the supplies or services is established in the contract at the time of contract award; or

(ii) The contracting officer solicits offers from two or more awardees for order placement when the price for the supplies or services is not established in the contract at the time of contract award.

(4) The head of the agency shall designate a task order contract and delivery order contract ombudsman who shall be responsible for reviewing complaints from contractors on task order contracts and delivery order contracts. The ombudsman shall review complaints from the contractors and ensure that all contractors are afforded a fair opportunity to be considered, consistent with the procedures in the contract. The ombudsman shall be a senior agency official who is independent of the contracting officer and may be the agency's competition advocate.

(c) *Limitation on ordering period for task order contracts for advisory and assistance services.* (1) Except as provided for in paragraph (c)(2) of this section, the ordering period of a task order contract for advisory and assistance services, including all options or modifications, may not exceed five years, unless a longer period is specifically authorized by a statute that is applicable to such a contract. Notwithstanding the

five-year limitation or the requirements of Part 6, a task order contract for advisory and assistance services may be extended on a sole-source basis only once for a period not to exceed six months if the contracting officer or other official designated by the head of the agency determines that—

(i) The award of a follow-on contract is delayed by circumstances that were not reasonably foreseeable at the time the initial contract was entered into; and

(ii) The extension is necessary to ensure continuity of services pending the award of the follow-on contract.

(2) The limitation on ordering period contained in paragraph (c)(1) of this section is not applicable to an acquisition of supplies or services that includes the acquisition of advisory and assistance services, if the contracting officer or other official designated by the head of the agency determines that the advisory and assistance services are necessarily incident to, and not a significant component of, the contract.

[60 FR 49726, Sept. 26, 1995, as amended at 61 FR 39203, July 26, 1996]

16.506 Solicitation provisions and contract clauses.

(a) The contracting officer shall insert the clause at 52.216-18, Ordering, in solicitations and contracts when a definite-quantity contract, a requirements contract, or an indefinite-quantity contract is contemplated.

(b) The contracting officer shall insert a clause substantially the same as the clause at 52.216-19, Order Limitations, in solicitations and contracts when a definite-quantity contract, a requirements contract, or an indefinite-quantity contract is contemplated.

(c) The contracting officer shall insert the clause at 52.216-20, Definite Quantity, in solicitations and contracts when a definite-quantity contract is contemplated.

(d) (1) The contracting officer shall insert the clause at 52.216-21, Requirements, in solicitations and contracts when a requirements contract is contemplated.

(2) If the contract is for nonpersonal services and related supplies and covers estimated requirements that exceed a

specific Government activity's internal capability to produce or perform, the contracting officer shall use the clause with its Alternate I.

(3) If the contract includes subsistence for both Government use and resale in the same Schedule, and similar products may be acquired on a brand-name basis, the contracting officer shall use the clause with its Alternate II (but see paragraph (d)(5) of this section).

(4) If the contract involves a partial small business set-aside, the contracting officer shall use the clause with its Alternate III (but see subparagraph (5) below).

(5) If the contract (i) includes subsistence for both Government use and resale in the same Schedule and similar products may be acquired on a brand-name basis and (ii) involves a partial small business set-aside, the contracting officer shall use the clause with its Alternate IV.

(e) The contracting officer shall insert the clause at 52.216-22, Indefinite Quantity, in solicitations and contracts when an indefinite-quantity contract is contemplated.

(f) The contracting officer shall insert the provision at 52.216-27, Single or Multiple Awards, in solicitations for indefinite quantity contracts that may result in multiple contract awards. This provision shall not be used for advisory and assistance services contracts that exceed three years and \$10,000,000 (including all options). Contracting officers may modify the provision to specify the number of awards the Government reasonably estimates that it may make.

(g) In accordance with 16.504(a)(4)(vi), the contracting officer shall insert the provision at 52.216-28, Multiple Awards for Advisory and Assistance Services, in solicitations for task order contracts for advisory and assistance services that exceed three years and \$10,000,000 (including all options) unless a determination has been made under 16.504(c)(2)(i)(A). Contracting officers may modify the provision to specify the number of awards the Government